

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

December 3, 2003

GSBCA 15704-TRAV, 15705-TRAV

In the Matters of JEFFREY L. PESLER

Jeffrey L. Pesler, Alpha, OH, Claimant.

James P. Gilmore, Chief, Financial Services Office, Headquarters Aeronautical Systems Center, Department of the Air Force, Wright-Patterson Air Force Base, OH, appearing for Department of the Air Force.

GOODMAN, Board Judge.

Claimant, Jeffrey L. Pesler, is a civilian employee of the Department of the Air Force. He has filed these two cases requesting reimbursement of various costs incurred while on temporary duty (TDY) travel. The agency and the claimant have advised the Board that they have resolved all issues raised in these cases except one. Accordingly, we issue this decision on the remaining issue.

Factual Background

Claimant's permanent duty station (PDS) was Wright Patterson Air Force Base, Ohio. The Air Force sent him on long-term TDY to Patuxent River Naval Air Station, Maryland, to take part in a joint program among the Navy, Marines, and Air Force. In 2000 and 2001, during this long-term TDY in Maryland, claimant traveled pursuant to TDY orders issued by the Navy to other locations around the country, including his PDS. The Navy paid claimant \$34 a day in miscellaneous and incidental expenses (M&IE) while claimant was on TDY at his PDS. It did not pay claimant lodging, as claimant maintained a permanent residence at his PDS at his own expense.

When the Air Force settled various travel claims submitted by claimant, it deducted from the amount due the claimant \$34 per day that the Navy paid claimant while on TDY at Wright Patterson. The amount of the deduction totaled \$642.

According to the Air Force, the reduction was made pursuant to applicable regulation because:

. . . while claimant [was on] TDY at [Patuxent] River and returned back to [Wright Patterson] AFB (claimant's PDS), [claimant was] not entitled to any per diem and since another agency (the Navy) had previously paid [claimant] these days, they had to be collected back. Based on this federal regulation, [the agency] deducted \$34 [per day] that was paid to [claimant] by [the Navy] while [claimant] was at [Wright Patterson].

Claimant disagrees with the Air Force's recoupment of the \$34 per day paid by the Navy while claimant was on TDY at Wright Patterson. Claimant believes that the regulation relied upon by the agency was "written to prevent [an employee from] collecting funds paid by the home station when the traveler returns home. In my case, I traveled as a Navy employee TDY to [Wright Patterson] in addition to being an [Air Force] employee 'returning home'."

Discussion

It is well established that lodging and meal expenses may not be reimbursed when an employee incurs these expenses at the official duty station despite unusual work conditions. Ronald Majtyka, GSBCA 16120-TRAV (July 9, 2003); Jerry B. Dulworth, GSBCA 16035-TRAV, et al., 03-2 BCA ¶ 32,312; Leo McManus, GSBCA 15549-TRAV, 01-2 BCA ¶ 31,507; Roy L. Siemons, GSBCA 15325-TRAV, 01-1 BCA ¶ 31,178 (2000); Ollice C. Holden, GSBCA 15175-TRAV, 00-1 BCA ¶ 30,815; Murray Lumpkin, GSBCA 14513-TRAV, 98-2 BCA ¶ 30,042.

Claimant's situation was unusual. He is an Air Force employee who was sent to his PDS, where he maintained a permanent residence, on official travel from another location where he was accomplishing long term TDY in a joint program involving the Air Force, Marines, and Navy. The Navy issued his travel orders. He was not authorized lodging, as he stayed at his permanent residence, but he was erroneously authorized per diem. The Air Force's rationale for recouping the per diem previously paid to him by the Navy under these circumstances was the following provision from the Joint Travel Regulations (JTR):

A per diem allowance shall not be allowed within the limits of the Permanent Duty Station (PDS), or at, or within the vicinity of, the place of residence from which the employee commutes daily to the official station.

JTR C4552-C.

The agency is correct. Claimant was not entitled to payment of per diem at his PDS.

Decision

The claim is denied.

ALLAN H. GOODMAN

Board Judge